

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PIERRE DONTE JOSH LIN,
Petitioner,
vs.
DWIGHT NEVEN, *et al.*,
Respondents.

Case No. 2:13-cv-01014-JAD-NJK

**ORDER DENYING MOTION TO DISMISS
AND DIRECTING RESPONSE TO SECOND
AMENDED PETITION**

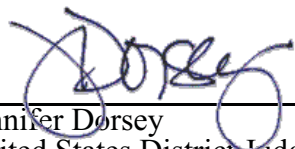
This is a habeas corpus proceeding under 28 U.S.C. § 2254. On June 26, 2015, this court entered an order granting petitioner's unopposed motion to file a second amended petition for writ of habeas corpus. Doc. 39. In response to that order, petitioner filed a second amended petition that omits Ground 3(c) but otherwise contains the same claims and allegations as his first amended petition. Doc. 41.

Because respondents' motion to dismiss (Doc. 31) is premised entirely on the procedural viability of Ground 3(c), the omission of this claim renders the motion moot. Thus, the court denies the motion to dismiss and takes this opportunity to schedule further proceedings in this case.

IT IS THEREFORE ORDERED that respondents' motion to dismiss (**Doc. 31**) is **DENIED** as moot.

IT IS FURTHER ORDERED that **respondents have until August 21, 2015, to file an answer to petitioner's second amended petition** (Doc. 41). With their answer, respondents must file any portion of the relevant state court record that has yet to be filed herein. Petitioner will have 45 days from the date on which the answer is served to file a reply.

Dated this 7th day of July, 2015.



Jennifer Dorsey
United States District Judge